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**UNITED STATES – ANTI-DUMPING AND COUNTERVAILING MEASURES
ON STEEL PLATE FROM INDIA**

Request for Consultations from India

The following communication, dated 4 October 2000, from the Permanent Mission of India to the Permanent Mission of the United States and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the United States of America pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article 17 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement or ADA), Article 30 of the Agreement on Subsidies and Countervailing Measures (ASCM) and Article XXII of the General Agreement on Tariffs and Trade 1994 (GATT 1994) regarding, (1) final affirmative determination of sales of Certain Cut-to-Length Carbon Quality Steel Plate Products from India at less than fair value by US Department of Commerce (DOC) on 13 December 1999 and affirmed on 10 February 2000; (2) interpretation and use of provisions relating to facts available in the Anti-dumping and Countervailing Duty investigations by DOC; (3) determination and interpretation by the US International Trade Commission (ITC) of negligibility, cumulation and material injury caused by the said Indian steel imports.

The Government of India considers that these determinations are erroneous and based on deficient procedures contained in US anti-dumping and countervailing duty law. The relevant determinations and statutory provisions include, but are not limited to:

1. ITC's determination of material injury due to dumped imports in contravention of WTO rules governing negligible imports (e.g. ITC's failure to find that imports from India were negligible, to terminate its investigation, and not to make a cumulative assessment of the effects of Indian imports and other imports subject to investigation);
2. ITC's determination of material injury due to subsidized imports in contravention of WTO rules governing negligible imports (e.g. ITC's failure to find that imports from India were negligible, to terminate its investigation, and not to make a cumulative assessment of the effects of Indian imports and other imports subject to investigation);
3. ITC's determination of material injury made without objective examination of the facts or in a uniform, impartial and reasonable manner;

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4. The provisions of US law relating to the inquiry into whether imports are negligible (e.g. 19 U.S.C. §1677(24); 19 U.S.C. §1673d(b)(1); 19 U.S.C. §1677(7)(G)(ii)(II);
5. DOC's determination of sales at less than fair value in contravention of WTO rules governing the use of "facts available" (e.g. the refusal by the US authorities to accept timely, verifiable and appropriately submitted export price information);
6. DOC's determination of sales at less than fair value made without objective examination of the facts or in a uniform, impartial and reasonable manner;
7. The provisions of US law relating to the use of facts available (e.g. 19 U.S.C. §1677m(e)); and
8. DOC's final anti-dumping duty order imposed without regard for India's status as a developing country Member and without consideration of other constructive remedies.

These determinations and provisions raise questions concerning the obligations of the US under the GATT 1994, the ADA, the ASCM and the Agreement Establishing the World Trade Organization (WTO Agreement). The provisions of these agreements, with which these measures and determinations appear to be inconsistent, include, but are not limited to, the following:

1. GATT 1994, Articles VI and X;
2. ADA, Articles 1, 2, 3 (especially 3.3), 5 (especially 5.8), 6 (especially 6.8), 12, 15, 18.4 and Annex II;
3. ASCM, Articles 10, 11 (especially 11.9), 15 (especially 15.3), 22 and 27 (especially 27.10); and
4. WTO Agreement, Article XVI.

The Government of India reserves its right to raise further factual claims and legal issues during the course of consultations.

We look forward to receiving your reply to the present request and to fixing a mutually convenient date for consultations.
